



401 9th St. NW, Suite 630
 Washington, DC 20004
 o. 202.232.5504 f. 202.232.5513

Previn Warren
Licensed in DC
 direct: 202.386.9610
 pwarren@motleyrice.com

October 20, 2022

The Honorable Yvonne Gonzalez Rogers
 U.S. District Judge
 Northern District of California
 Oakland Courthouse
 Courtroom 1 – 4th Floor
 1301 Clay Street
 Oakland, CA 94612

Re: In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation,
 Case No. 4:22-md-03047-YGR

Dear Judge Rogers,

Previn Warren of Motley Rice LLC hereby respectfully files this Motion for Appointment to serve in the leadership of this matter, at the Court's discretion either as lead counsel or as a member of the Plaintiffs' Steering Committee (or "PSC"). Warren, with the full support and resources of Motley Rice, will contribute diversity and experience—in complex case investigation, discovery, and resolution; consumer protection; class action; and mass tort—to the leadership of this MDL. In particular, Warren has litigated important cases against technology and media giants. He has tried and prevailed in cases worth hundreds of millions of dollars against the likes of Google, iHeartMedia, and Sirius XM.

In 2017, Warren managed substantial fact and expert discovery in a complex accounting litigation against Sirius XM. His efforts uncovered a wealth of evidence that, in 2018, resulted in Sirius XM returning \$150 million in underpaid royalties to recording artists and record labels.¹ Around the same time, Warren helped try a significant rate-setting case against Sirius XM that resulted in the largest-ever increase in the royalty rate owed by that company for its performance of sound recordings.² In 2020, Warren delivered a precedent-setting victory, when a federal court in Atlanta held hip-hop streaming service Spinrilla liable for widespread acts of infringement.³ And later that year, Warren led a trial team in a case against Internet radio streaming services, including Google. As a result, recording artists and record companies will earn many hundreds of millions of dollars more from streaming royalty revenues through 2025.⁴

Warren's experience squaring off against media and technology companies and his experience as a defense bar insider provides him with a unique understanding of the nuanced issues that will arise when

¹ *SoundExchange, Inc. v. Sirius XM Radio, Inc.*; Case Nos. 13-cv-02190 and 17-cv-02666 (DDC) before U.S. District Judge Richard J. Leon (202-354-3580).

² *In re Determination of Royalty Rates and Terms for Transmission of Sound Recordings by Satellite Radio and "Preexisting" Subscription Services (SDARS III)*, Case No. 16-CRB-0001 SR/PSSR (2018-2022) before the U.S. Copyright Royalty Board ("CRB") (202-707-7658).

³ *Atlantic Recording Corporation, et al. v. Spinrilla, LLC, et al.*; Case No. 17-cv-00431 (NDGA) before U.S. District Judge Amy Totenberg (404-215-1438).

⁴ *In re Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies to Facilitate those Performances (Web V)*, 19-CRB-0005-WR (2021-2025) before the CRB (202-707-7658).

litigating against the Defendants here—including complex electronic discovery issues and highly technical expert testimony involving source code analysis. Warren’s deep, first-hand understanding of these issues will help this litigation move as quickly as possible through the Courts.

Warren will contribute many other positive attributes to the leadership of this MDL. First, Warren represents a new wave of diversity among mass tort lawyers—as one of relatively few South Asian practitioners in this space. An attendee of this year’s inaugural [Shades of Mass](#) conference, Warren was named a Rising Star by the South Asian Bar Association in 2019. He serves on the board of directors for the [AAPI Victory Alliance](#), an organization that advocates for policies that empower Asian Americans and Pacific Islanders.⁵ Second, Warren draws upon his years of experience working at a defense-side firm, including as a partner at Jenner & Block LLP. Having defended substantial commercial litigations on behalf of major multinationals such as Nissan, Marriott, and General Dynamics, Warren is uniquely positioned to anticipate his adversaries’ every move. Third, Warren has notable political and government experience—relevant, given that this case will be litigated against a background of rapidly evolving state and federal legislative proposals. In addition to serving as a law clerk on the D.C. Circuit to then-Chief Judge Merrick Garland, Warren has served as senior advisor to the first director of the Consumer Financial Protection Bureau and as general counsel to the presidential campaign of then-mayor Pete Buttigieg.

As a member of Motley Rice, Warren draws upon his law firm’s unsurpassed experience leading MDLs against well-resourced defendants.⁶ Few firms can come close to the complex litigation experience that Motley Rice has acquired over the last several decades. Motley Rice successfully litigated against big tobacco, the opioid industry, on behalf of victims of terrorism, and many other ground-breaking mass torts. In this case, Motley Rice’s team of 20 lawyers working on these cases includes members Joseph Rice, Jodi Flowers, Donald Migliori, Mathew Jasinski, and Jonathan Orent, who are all personally involved in the day-to-day litigation and both willing and able to provide assistance and support to Warren.

Warren and Motley Rice filed a lawsuit against Instagram LLC, Meta Platforms Inc., and Mark Zuckerberg on October 7, 2022.⁷ Through this case and related cases pending in California state court, they have devoted considerable resources to the investigation and prosecution of this time-consuming project. Indeed, Motley Rice has been studying the facts, science, technology, and law related to these matters since the fall of 2021. The firm has already subpoenaed whistleblower Frances Haugen and obtained and reviewed thousands of pages (over 60 GB) of highly probative internal documents, many never released to the public. That review will drive a discovery plan that Warren and his colleagues are prepared to pursue aggressively. In addition, Motley Rice was the only American law firm permitted to attend the North London Coroner’s inquest into the passing of 14-year old Molly Rose Russell. During that landmark hearing, the facts surrounding the harm done by Instagram’s algorithms were laid bare and Meta previewed many of its defenses, trying unsuccessfully to disclaim responsibility for Molly’s suicide. Finally, Motley Rice has engaged and is working with multiple psychologists and technologists, whose expert input is reflected in the firm’s pleadings and in the firm’s trauma-informed approach to working with its clients.

⁵ Courts have been encouraged to “appoint[] ... an experienced slate of attorneys” who will “fairly represent all plaintiffs, keeping in mind the benefits of diversity of experience, skills, and backgrounds.” David Rock and Heidi Grant, *Why Diverse Teams Are Smarter*, Harv. Bus. Rev. (Nov. 4, 2016), <https://hbr.org/2016/11/why-diverse-teams-are-smarter>.

⁶ Of particular relevance, Motley Rice brought another data breach lawsuit in 2018 against Facebook and Cambridge Analytica for a data breach affecting the personally identifiable information of over 87 million individuals. *In re: Facebook, Inc. Consumer Privacy User Profile Litig.*, Case No. 18-md-2843-VC (N.D. Cal.). In 2020, Motley Rice filed one of the founding cases against Blackbaud for yet another data breach. *In re: Blackbaud, Inc., Customer Data Breach Litig.*, Case No. 20-mn-2972-JFA (D.S.C.). Motley Rice member Marlon Kimpson serves as co-lead counsel in this action.

⁷ See *Nicholas Calvoni and Rosemarie Calvoni, individually and on behalf of their minor child J.C. vs. Instagram LLC, et al.*, No. 22-cv-5873 (N.D. Cal.). Motley Rice is in the process of reviewing hundreds of additional cases for filing.

With respect to legal acumen, Warren and Motley Rice have developed a strategy focused on the product features of Instagram, which the Meta defendants designed and deployed to exploit the neurobiology of developing adolescent brains. Because this theory of liability focuses on the platform's addictive attributes—not its publication of third-party content—it is well positioned to survive a defense under Section 230 of the Communications Decency Act, irrespective of the outcome in *Gonzalez, Reynaldo, et al. v. Google LLC*, No. 21-1333, a case pending before the United States Supreme Court. (Regardless, Warren has taken a leadership role in coordinating *amicus* briefs on behalf of the petitioners in that case.) Warren's strategic vision combines claims tailored narrowly to the law and the science, focused discovery, and intensive case vetting by plaintiffs—which, together, will expeditiously move these cases from discovery to trial.

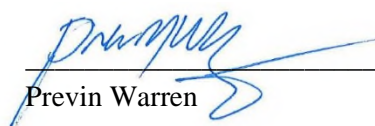
Warren and Motley Rice have a demonstrated track record of working cooperatively with other counsel. Over the past months, Warren has worked with Meta's counsel to fashion a process for Meta to assert privilege claims over documents produced by whistleblower Ms. Haugen. They are also in the process of negotiating a protective order to address confidentiality claims asserted by Meta. Importantly, Motley Rice has also successfully worked with the majority of firms seeking leadership roles in the instant litigation.⁸ Warren and his team have been engaged with counsel for other plaintiffs, participating in meetings, calls and organizational discussions concerning this litigation. Based on these discussions, Warren specifically supports the applications of counsel identified in the attachment that follows.

Warren was named one of the National Law Journal's DC Rising Stars in 2019. In 2022, Billboard named Warren one of the country's Top Music Lawyers, citing his work successfully litigating against streaming services like Google. Motley Rice has received countless awards and recognitions for its work on behalf of plaintiffs. It is one of only three firms that are nationally ranked as Band 1 by Chambers USA in the Nationwide: Product Liability: Plaintiffs category for 2022. U.S. News & World Report – "Best Law Firms" named Motley Rice as a 2022 "Law Firm of the Year" in the Mass Tort Litigation/Class Action - Plaintiffs category. Additionally, Law360 named Motley Rice a Product Liability Practice Group of the Year for 2021, 2020, 2019 and 2015. Further detail about the awards and experience of Warren and Motley Rice can be found in the attached resume.

Motley Rice professionals maintain contemporaneous time and expense records. Motley Rice is accustomed to MDL timekeeping and the need for counsel to work cooperatively and efficiently to advance the case through coordinated discovery and common benefit work.

Wherefore, Warren commits his willingness to serve as lead counsel or as a member of the PSC pursuant to the Federal Rules, N.D. Cal. Local Rules, this Court's Rules, and the *Manual for Complex Litigation* (4th ed. 2020), and respectfully requests that this Court grant this application and appoint him a leadership role in this matter. Warren's application is supported by the attorneys identified in the attachment that follows.

Respectfully Submitted,



Previn Warren

⁸ *In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litig.*, Case No. 16-md-2738-FLW-LHG (D.N.J.); *In re: National Prescription Opioid Litig.*, Case No. 17-md-2804-DAP (N.D. Ohio); *In re: American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litig.*, Case No. 12-md-2325-JRG (S.D.W. Va.); *In re: Ethicon, Inc., Pelvic Repair System Products Liability Litig.*, Case No. 12-md-2327-JRG (S.D.W. Va.); *In re: National Football League Players' Concussion Injury Litig.*, Case No. 12-md-2323-ABB (E.D. Pa.).